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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO:
09/737,928	12/15/2000	Steven Ray Stopper	15088	1071

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KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER
GOFF II, JOHN L

ART UNIT	PAPER NUMBER
1733	

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/737,928	Applicant(s) STOPPER, STEVEN RAY
	Examiner John L. Goff	Art Unit 1733

-- The MAILING DATE of this communication appears on the cover sh t with the correspondence addr ss --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 June 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *13* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

1. This action is in response to Amendment B filed on 6/13/03. All previous 35 USC 112 rejections have been overcome.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/13/03 has been entered.

Claim Rejections - 35 USC § 103

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19653608 (See Derwent abstract and English translation) in view of any one of WO 98/58799, Kobylivker al. (U.S. Patent 6,002,064), McBride (U.S. Patent 4,880,422), and Winter (U.S. Patent 4,765,999), and further in view of either Cloeren (U.S. Patent 4,152,387) or Cloeren (4,553,308).

DE 19653608 is directed to forming hygiene articles including diapers, training pants (i.e. diaper pants), etc. by simultaneously co-extruding a carrier film with a foam (i.e. absorbent) layer to form a multilayer article. DE 19653608 teaches the carrier film and foam layer may be

gas permeable (i.e. breathable) (See example 2, lines 7-10 and page 2, lines 17-22 and page 3, lines 6-7 and page 4, lines 14-25 and page 5, lines 11-14 and 19-23 and page 8, lines 1-14 of the translation cited on the form PTO-892 of paper no. 8). DE 19653608 is silent as to a specific teaching on extruding the carrier film and foam layer using a cast extrusion technique. It is noted DE 19653608 suggests extruding the carrier film and foam layer using a blown extrusion technique (See page 4, lines 12-14). However, DE 19653608 does not exclude extruding the carrier film and foam layer using a cast extrusion technique. Furthermore, cast and blown extrusion techniques are well known functional equivalents in the extrusion art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extrude the carrier film and foam layer taught by DE 19653608 using a blown or cast extrusion technique as both techniques are conventional extrusion techniques in the art as shown for example by any one of WO 98/58799, Kobylivker al., McBride, or Winter.

WO 98/58799 is directed to co-extruded multilayer films for use in personal care products. WO 98/58799 teach the films are formed of a polyolefin (Page 4), and the films are co-extruded using conventional film forming techniques such as cast and blown film forming processes (Page 2 and Page 4 and Page 8). Kobylivker et al. are directed to extruded barrier films, including multilayer films, for use in disposable items. Kobylivker al. teach the films are formed of a polyolefin (Column 1, lines 49-52), and the multilayer films are prepared by cast or blown film co-extrusion (Column 7, lines 41-43). McBride is directed to a backsheet for use in a diaper. McBride teaches the backsheet comprises polyolefins (Column 1, lines 14-17), and the backsheet is blown-film or cast-film constructed (Column 2, lines 46-49). Winter is directed to a

multilayer bag formed of polyester film. Winter teaches forming the film using conventional blown or cast co-extrusion techniques (Column 2, lines 13-19).

It is further noted DE 19653608 does not expressly recite using a multiple-manifold die. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the extrusion die in the process taught by DE 19653608 a multiple-manifold die as it was well known and conventional in the art to use these dies to extrude multilayer articles as shown for example by either Cloeren '387 or Cloeren '308.

Cloeren '387 is directed to a multiple-manifold die used to extrude multilayer articles wherein the die allows layers having different thickness and diverse rheological properties to be extruded (Column 1, lines 30-39, 46-47, 51-53, and 56-61 and Column 2, lines 57-63). Cloeren '308 is directed to a multiple-manifold die used to extrude multilayer articles (Column 1, lines 11-16).

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19653608, WO 98/58799, Kobylivker al., McBride, Winter, Cloeren '387, and Cloeren '308 as applied above in paragraph 4, and further in view of Van Gompel al. (U.S. Patent 4,938,753).

DE 19653608, WO 98/58799, Kobylivker al., McBride, Winter, Cloeren '387, and Cloeren '308 as applied above teach all of the limitations in claim 19 except for a teaching of laminating a nonwoven layer to either side of the multilayer article. However, it is noted DE 19653608 teach the extruded multilayer articles can be used to form diapers, training pants, etc. such that it would have been obvious to one of ordinary skill in the art at the time the invention was made to laminate to one and/or both sides of the multilayer article taught by DE 19653608 as modified by any one of WO 98/58799, Kobylivker al., McBride, or Winter and either Cloeren

'387 or Cloeren '308 a nonwoven layer to provide a cloth like outer cover for contacting the wearers skin as was well known in the art as shown for example by Van Gompel al.

Van Gompel al. are directed to a training pant comprising an absorbent multilayer article having on its upper surface of a bodyside liner formed of a woven or nonwoven for contacting the users skin. Van Gompel al. teach a method for forming the training pant comprising obtaining a substantially rectangular multilayer article, forming leg cutouts in the article, forming a seam by joining two edges of the article, and sealing the edges ultrasonically (Figures 1 and 14 and Column 1, lines 23-27 and 42-48 and Column 5, lines 14-16 and Column 12, lines 22-25 and 30-34).

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19653608, WO 98/58799, Kobylivker al., McBride, Winter, Cloeren '387, and Cloeren '308 as applied above in paragraph 4, and further in view of King (U.S. Patent 5,961,509).

DE 19653608, WO 98/58799, Kobylivker al., McBride, Winter, Cloeren '387, and Cloeren '308 as applied above teach all of the limitations in claim 20 except for a teaching of thermoforming the multilayer article. However, it is noted DE 19653608 teach the extruded multilayer articles can be used to form diapers, training pants, etc. (i.e. articles having an approximately rectangular shape). It would have been obvious to one of ordinary skill in the art at the time the invention was made to thermoform the multilayer article (e.g. diaper, training pant, etc.) taught by DE 19653608 as modified by any one of WO 98/58799, Kobylivker al., McBride, or Winter and either Cloeren '387 or Cloeren '308 into a three-dimensional shape as this was a well known technique for forming a wearable article such as those taught by DE

19653608 that fit closely to the contours of the body at the point of application as shown for example by King.

King is directed to absorbent articles having a multilayer structure wherein the articles are thermoformed into a three dimensional shape to form articles that fit more closely to the contours of the body at the point of application (Figures 1-6 and Column 1, lines 5-10, 17-22, and 49-59 and Column 2, lines 5-9 and Column 4, lines 14-25, 52-53, and 59-67 and Column 5, lines 1-3).

7. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19653608, WO 98/58799, Kobylivker al., McBride, Winter, Cloeren '387, Cloeren '308, and King as applied above in paragraph 6, and further in view of Van Gompel al.

DE 19653608, WO 98/58799, Kobylivker al., McBride, Winter, Cloeren '387, Cloeren '308, and King as applied above teach all of the limitations in claims 21 and 22 except for a teaching of joining and ultrasonically sealing the edges of the multilayer article. However, it is noted DE 19653608 teach the extruded multilayer articles can be used to form training pants. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the training pants taught by DE 19653608 as modified by any one of WO 98/58799, Kobylivker al., McBride, or Winter and either Cloeren '387 or Cloeren '308 and King by joining and ultrasonically sealing the edges of the multilayer as this is a well known and conventional process for forming training pants as shown for example by Van Gompel al.

Van Gompel al. are directed to a training pant comprising an absorbent multilayer article having on its upper surface of a bodyside liner formed of a woven or nonwoven for contacting the users skin. Van Gompel al. teach a method for forming the training pant comprising

obtaining a substantially rectangular multilayer article, forming leg cutouts in the article, forming a seam by joining two edges of the article, and sealing the edges ultrasonically (Figures 1 and 14 and Column 1, lines 23-27 and 42-48 and Column 5, lines 14-16 and Column 12, lines 22-25 and 30-34).

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19653608 in view of any one of WO 98/58799, Kobylivker al., McBride or Winter and further in view of either Cloeren '387 or Cloeren '308 and further taken with King.

DE 19653608 is directed to forming hygiene articles including diapers, training pants (i.e. diaper pants), etc. by simultaneously co-extruding a carrier film with a foam (i.e. absorbent) layer to form a multilayer article. DE 19653608 teaches the carrier film and foam layer may be gas permeable (i.e. breathable) (See example 2, lines 7-10 and page 2, lines 17-22 and page 3, lines 6-7 and page 4, lines 14-25 and page 5, lines 11-14 and 19-23 and page 8, lines 1-14 of the translation cited on the form PTO-892 of paper no. 8). DE 19653608 is silent as to a specific teaching on extruding the carrier film and foam layer using a cast extrusion technique. It is noted DE 19653608 suggests extruding the carrier film and foam layer using a blown extrusion technique (See page 4, lines 12-14). However, DE 19653608 does not exclude extruding the carrier film and foam layer using a cast extrusion technique. Furthermore, cast and blown extrusion techniques are well known functional equivalents in the extrusion art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extrude the carrier film and foam layer taught by DE 19653608 using a blown or cast extrusion technique as both techniques are conventional extrusion techniques as shown for example by any one of WO 98/58799, Kobylivker al., McBride, or Winter.

As to using a multiple-manifold die, it is noted DE 19653608 does not expressly recite using a multiple-manifold die. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the extrusion die in the process taught by DE 19653608 as modified by any one of WO 98/58799, Kobylivker al., McBride, or Winter a multiple-manifold die as it was well known and conventional in the art to use these dies to extrude multilayer articles as shown for example by either Cloeren '387 or Cloeren '308.

As to thermoforming the multilayer, DE 19653608 is silent as to further processing of the multilayer. However, it is noted DE 19653608 teach the extruded multilayer articles can be used to form diapers, training pants, etc. (i.e. articles having an approximately rectangular shape). It would have been obvious to one of ordinary skill in the art at the time the invention was made to thermoform the multilayer article (e.g. diaper) taught by DE 19653608 as modified by any one of WO 98/58799, Kobylivker al., McBride or Winter and either Cloeren '387 or Cloeren '308 into a three-dimensional shape as this was a well known technique for forming a wearable article such as those taught by DE 19653608 that fit closely to the contours of the body at the point of application as shown for example by King.

As to forming leg cutouts, it is noted DE 19653608 as modified by any one of WO 98/58799, Kobylivker al., McBride or Winter and either Cloeren '387 or Cloeren '308 and King do not specifically recite forming the leg cutouts in the multilayer article. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form leg cutouts in the multilayer article taught by DE 19653608 as modified by any one of WO 98/58799, Kobylivker al., McBride or Winter and either Cloeren '387 or Cloeren '308 and King

to form articles such as diapers and training pants that can conform to a users movements. It is also noted Figure 6 of King show a thermoformed diaper with leg cutouts.

WO 98/58799 is directed to co-extruded multilayer films for use in personal care products. WO 98/58799 teach the films are formed of a polyolefin (Page 4), and the films are co-extruded using conventional film forming techniques such as cast and blown film forming processes (Page 2 and Page 4 and Page 8). Kobylivker et al. are directed to extruded barrier films, including multilayer films, for use in disposable items. Kobylivker al. teach the films are formed of a polyolefin (Column 1, lines 49-52), and the multilayer films are prepared by cast or blown film co-extrusion (Column 7, lines 41-43). McBride is directed to a backsheet for use in a diaper. McBride teaches the backsheet comprises polyolefins (Column 1, lines 14-17), and the backsheet is blown-film or cast-film constructed (Column 2, lines 46-49). Winter is directed to a multilayer bag formed of polyester film. Winter teaches forming the film using conventional blown or cast co-extrusion techniques (Column 2, lines 13-19).

Cloeren '387 is directed to a multiple-manifold die used to extrude multilayer articles wherein the die allows layers having different thickness and diverse rheological properties to be extruded (Column 1, lines 30-39, 46-47, 51-53, and 56-61 and Column 2, lines 57-63). Cloeren '308 is directed to a multiple-manifold die used to extrude multilayer articles (Column 1, lines 11-16).

King is directed to absorbent articles having a multilayer structure wherein the articles are thermoformed into a three dimensional shape to form articles that fit more closely to the contours of the body at the point of application (Figures 1-6 and Column 1, lines 5-10, 17-22,

and 49-59 and Column 2, lines 5-9 and Column 4, lines 14-25, 52-53, and 59-67 and Column 5, lines 1-3).

9. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19653608, WO 98/58799, Kobylivker al., McBride, Winter, Cloeren '387, Cloeren '308, and King as applied above in paragraph 8, and further in view of Van Gompel al. (U.S. Patent 4,938,753).

DE 19653608, WO 98/58799, Kobylivker al., McBride, Winter, Cloeren '387, Cloeren '308 and King as applied above teach all of the limitations in claim 24 except for a teaching of laminating a nonwoven layer to either side of the multilayer article. However, it is noted DE 19653608 teach the extruded multilayer articles can be used to form diapers, training pants, etc. such that it would have been obvious to one of ordinary skill in the art at the time the invention was made to laminate to one and/or both sides of the multilayer article taught by DE 19653608 as modified by any one of WO 98/58799, Kobylivker al., McBride or Winter and either Cloeren '387 or Cloeren '308 and King a nonwoven layer to provide a cloth like outer cover for contacting the users skin as was well known in the art as shown for example by Van Gompel al.

Van Gompel al. are directed to a training pant comprising an absorbent multilayer article having on its upper surface of a bodyside liner formed of a woven or nonwoven for contacting the users skin. Van Gompel al. teach a method for forming the training pant comprising obtaining a substantially rectangular multilayer article, forming leg cutouts in the article, forming a seam by joining two edges of the article, and sealing the edges ultrasonically (Figures 1 and 14 and Column 1, lines 23-27 and 42-48 and Column 5, lines 14-16 and Column 12, lines 22-25 and 30-34).

Response to Arguments

10. Applicant's arguments filed 6/13/03 have been fully considered but they are not persuasive. Applicant argues DE 196530608 does not describe the carrier films as breathable. It is noted DE 196530608 teaches the carrier films and foam layer are gas permeable, i.e. breathable, (Page 3, lines 6-7 and Page 5, lines 11-14). Applicant further argues there is no suggestion in DE 196530608 to use a multi-manifold die. Cloeren '387 and Cloeren '308 are cited to show the well known and conventional use of multi-manifold dies to extrude multilayer articles. Applicant further argues cast and blown extrusion techniques are not functionally equivalent. While it is noted cast and blown extrusion techniques are different in that each may have their own particular advantages and disadvantages, the use of either technique for extruding a multilayer is very well known in the art, i.e. they are functionally equivalent, as shown by any one of WO 98/58799, Kobylivker al., McBride, and Winter such that the choice of which technique to use would have been obvious and well within the ordinary skill of one in the art. Applicant further argues WO 98/58799, Kobylivker al., McBride, and Winter do not teach forming the personal care products taught by DE 196530608. It is noted WO 98/58799, Kobylivker al., McBride, and Winter are applied to show cast and blown extrusion techniques are well known functional equivalents for forming a film or film multilayer.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **703-305-7481**. The examiner can normally be reached on M-Th (8 - 5) and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

John L. Goff
June 30, 2003

JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1300